

**AMENDMENTS TO THE CLAIMS:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

1. (Currently Amended) A game apparatus operable to execute a game BGM generating program stored on a storage medium that stores a game BGM generating program to be executed by a game apparatus processor,

said game apparatus comprising:

a phrase data storage area that stores different kinds of a plurality of phrase data, ~~by each group based on a musical characteristic, that wherein said phrase data~~ designate a length and a pitch of a pronunciation of a tone color;

a rhythm-pattern storage area that stores at least one kind of rhythm pattern data, constructed of ~~two or more~~ rhythm data, that designate a length in performance for performing a phrase, and a ~~pronunciation~~ timing of said phrase;

BGM-data reproducing programmed logic circuitry that reproduces BGM data constructed of at least one part;

a tone\_color-data storage area that stores data of ~~the~~a sound output according to said BGM data;

a continuous counter for counting the number of times the same phrase has been selected; and

sound outputting programmed logic circuitry that outputs a sound according to the BGM data reproduced by said BGM-data reproducing programmed logic circuitry,

wherein

    said game BGM generating program is capable of being executed by a processor of said game apparatus to perform the steps of:

        randomly selecting one kind of the phrase data ~~from one group~~ stored in said phrase data storage area including incrementing said continuous counter when the phrase data selected last time and the phrase data selected this time agree and re-selecting the phrase data when a count value of said continuous counter is larger than a predetermined value;

        selecting one rhythm data from one kind of the rhythm pattern data stored in said rhythm-pattern storage area according to a predetermined rule; and

        generating the BGM data from the phrase data selected by said randomly selecting one kind of the phrase and the rhythm data selected by said selecting one kind of rhythm data.

2. (Currently Amended) ~~A storage medium that stores a game BGM generating program~~ A game apparatus according to claim 1, wherein

    said selecting one kind of rhythm includes randomly selecting the rhythm data from one kind of said rhythm pattern data.

3. (Currently Amended) A game apparatus ~~A storage medium that stores a game BGM generating program~~ according to claim 1, wherein

    said rhythm selecting step includes sequentially selecting the rhythm data from one kind of said rhythm pattern data in predetermined order.

4. Cancelled.

5. (Currently Amended) A game apparatus ~~A storage medium that stores a game BGM generating program~~ according to claim 1, further comprising wherein ~~said game apparatus further comprises at least one operating control that inputs an operation from a player; and~~ performance-change data storage area that stores performance-change data that changes a performing method of a BGM, wherein said said game BGM generating program is capable of being executed by said processor of said game apparatus to further perform the steps of: ~~and further is used by said processor in execution of the following steps of,~~ storing performance-change data corresponding to at least the operation of said at least one operating control in said performance-change data storage area; and applying a predetermined change to said BGM data, corresponding to the performance-change data, stored in said performance-change data storage area by said storing performance-change data.

6. (Currently Amended) A game apparatus ~~A storage medium that stores a game BGM generating program~~ according to claim 5, wherein, applying a predetermined change includes changing a tempo of said BGM data according to said performance-change data.

7. (Currently Amended) A game apparatus ~~A storage medium that stores a game BGM generating program~~ according to claim 1, wherein

— said game apparatus further comprises comprising a period designating data storage area that stores period designating data that designates a performing period and a performance suspended period of the phrase, wherein

    said BGM-data reproducing programmed logic circuitry suspends a reproduction of the BGM data in the performance suspended period based on said period designating data, and

    allows said processor to execute the step of counting the performing period and the performance suspended period designated by said period designating data, by the number of times the rhythm data has been selected.

8. (Currently Amended) A game BGM generating method of a game apparatus provided with a phrase data storage area that stores different kinds of a plurality of phrase data, ~~by each group~~ based on a musical characteristic, ~~that~~ wherein said phrase data designate a length and a pitch of a pronunciation of a tone color,

    a rhythm-pattern storage area that stores at least one kind of rhythm pattern data constructed of ~~two or more~~ rhythm data that designate a length in performance for performing a phrase, and a pronunciation-timing of said phrase;

    BGM-data reproducing programmed logic circuitry that reproduces BGM data constructed of at least one part;

    a tone\_color-data-storage area that stores data of a sound, output according to said BGM data;

    a continuous counter for counting the number of times the same phrase has been

selected; and

sound outputting programmed logic circuitry for outputting the sound according to the BGM data reproduced by said BGM-data reproducing programmed logic circuitry, said game BGM generating method comprising:

(a) randomly selecting one kind of the phrase data ~~from one group~~ stored in said phrase data storage area including incrementing said continuous counter when the phrase data selected last time and the phrase data selected this time agree and re-selecting the phrase data when a count value of said continuous counter is larger than a predetermined value;

(b) selecting one rhythm data from one kind of the rhythm pattern data stored in said rhythm-pattern storage area; and

(c) generating the BGM data from the phrase data selected by said step (a) and the rhythm data selected by said step (b).

9. (Currently Amended) A game apparatus that performs a BGM corresponding to at least a proceeding situation of a game, comprising:

a phrase data storage area that stores different kinds of a plurality of phrase data, ~~by each group~~ based on a musical characteristic, that wherein said phrase data designate a length and a pitch of a pronunciation of a tone-color;

a rhythm-pattern storage area that stores at least one kind of rhythm pattern data, constructed of ~~two or more~~ rhythm data, that designate a length in performance for performing a phrase and a ~~pronunciation~~ timing of said phrase;

BGM-data reproducing programmed logic circuitry that reproduces BGM data

constructed of at least one part;

a tone-color-data-storage area that stores data of a sound output according to said BGM data;

a continuous counter for counting the number of times the same phrase has been selected;

phrase selecting programmed logic circuitry that randomly selects one kind of the phrase data from one group stored in said phrase data storage area including incrementing said continuous counter when the phrase data selected last time and the phrase data selected this time agree and re-selecting the phrase data when a count value of said continuous counter is larger than a predetermined value;

rhythm-pattern selecting programmed logic circuitry that selects one rhythm data from one kind of the rhythm pattern data stored in said rhythm-pattern storage area according to a predetermined rule;

BGM generating programmed logic circuitry that generates said BGM data from the phrase data selected by said phrase selecting programmed logic circuitry and the rhythm data selected by said rhythm-pattern selecting programmed logic circuitry, and

sound outputting programmed logic circuitry that outputs the sound according to the BGM data reproduced by said BGM-data reproducing mechanism.

10. (Currently Amended) A method for generating a sequence of BGM, comprising the steps of:

providing at least one set of rhythm data;  
providing at least one set of phrase data;  
selecting a set of rhythm data from the at least one set of rhythm data;  
selecting a set of phrase data from the at least one set of phrase data;  
counting the number of times the currently selected set of phrase data has been continuously selected;  
re-selecting a new set of phrase data if the currently selected phrase data has been continuously selected more than a predetermined number of times; and  
generating BGM data from the selected rhythm data and the selected phrase data.

11. (Cancelled).

12. (Previously Presented) The method of claim 10, wherein the selecting a set of rhythm data includes randomly selecting a set of rhythm data.

13. (Previously Presented) The method of claim 10, wherein the selecting a set of rhythm data includes sequentially selecting a set of rhythm data.

14. (Currently Amended) The method of claim 10, wherein the selecting a set of phrase data includes randomly selecting a set of phrase data.

15. (Previously Presented) The method of claim 8, wherein the selecting a one rhythm data includes randomly selecting a rhythm data.

16. (Previously Presented) The method of claim 8, wherein the selecting a one rhythm data includes sequentially selecting a rhythm data.